

REMARKS/ARGUMENTS

In view of the remarks herein, favorable reconsideration and allowance of this application are respectfully requested. Claims 1-9 and 11-23 are pending for further examination.

Claims 1-9 and 11-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Capazario et al. (U.S. Patent Publication No. 2003/0154141) in view of Huang et al. (U.S. Patent No. 6,151,582) and further in view of Dovolis (U.S. Patent Publication No. 2001/0034609). This rejection is respectfully traversed for at least the following reasons.

In order for a claim to be rejected under 35 U.S.C. § 103(a), each and every limitation of that claim must be taught or suggested in a reference or combination of references, and such teachings and/or suggestions must be combinable. The alleged three-way combination of Capazario, Huang, and Dovolis does not teach or suggest each and every limitation of independent claims 1 or 13, or their respective dependents. For example, the prior art of record, alone and in combination, does not teach or suggest allocating “a launch quantity to each account for a new product launch and allocates product to each account for replenishment of a previously launched product, based on the allocation method assigned to the product and in accordance with a predefined business allocation goal provided by the sales administrator for the plurality of locations,” as required by claims 1 and 13 and their respective dependents.

Moreover, the alleged motivation for combining the references is highly dubious, at least insofar as it appears to be based on mere conclusory statements without any clearly articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Indeed, the combination appears to be nothing more than an attempted hindsight reconstruction of Applicant's claims. For this additional reason, the alleged combination cannot render obvious the claimed invention.

From the outset, Applicant notes that none of the three applied prior art references appear to be related to each other -- much less the claimed invention. For example, Applicant notes that Capazario, the base reference in this obviousness-type rejection, appears to be unrelated both to the invention of the claims and to the secondary reference (Huang), and the tertiary reference (Dovolis). This is because Capazario primarily relates to a store-specific inventory management system to be used by planners at that particular store, and not to a system for use by a sales administrator for allocating product to a plurality of locations. Capazario appears to be designed to use image recognition techniques to direct store personnel to rearrange products already present at the site to make them look more aesthetically pleasing. Thus, in Capazario, and in any alleged combination based on Capazario, the ability to manage the actual amount and allocation of stock within a location appears to be secondary at best to managing its physical appearance within a site -- to say nothing of the ability to manage stock across a plurality of locations as required by claim 1. Thus, it appears to be improper to combine Capazario with Huang, which discloses a decision support system for managing an agile

supply chain including a server side and a client side, and to apply Capazario, Huang, and/or their alleged combination to the invention of the claims.

Furthermore, although Dovolis relates to techniques for managing asset information, the assets that are managed by Dovolis are wholly unrelated to the techniques for adjusting the physical appearance of stock in a store (Capazario) and/or supply chain management techniques (Huang). The asset information management techniques of Dovolis allow a consumer to register warranty information at a point-of-sale and to later access, modify, and append purchase information via the Internet (see paragraph 13 of Dovolis). Dovolis is unconcerned with both the physical appearance of goods within a location and the supply chain for providing the goods to the location -- much to the contrary, Dovolis is actually directed to managing what happens to the information that is available to the consumer after the goods are taken off of the shelves and after the goods are removed from the supply chain, in that it is directed to registering warranty information at a point-of-sale once the product is purchased and then enabling access to related information at a later time and at a different location.

Page 4 of the Final Office Action alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention “to have included the features of Dovolis within the collective teachings of Capazario and Huang with the motivation of providing a system and method for managing persona and/or business assets.” As shown above, however, Dovolis manages a completely different kind of “asset” in a completely different manner than Capazario, Huang, and the alleged Capazario/Huang combination.

The portions of Dovolis cited in the Final Office Action actually argue against its introduction to the alleged Capazario/Huang combination, since (1) paragraph 2 of Dovolis states that asset information is automatically entered at a point-of-sale and that warranty registration information is accessible over the Internet, and (2) Fig. 9 of Dovolis actually shows a consumer-based process for inputting information about an item already in the consumer's possession. In marked contrast, and as well-covered above, Capazario relates to managing the physical appearance of goods to be sold at a point-of-sale and Huang relates to managing a supply chain (that is, up until the product is sold).

In a nutshell, Capazario is concerned with how physical goods appear in a location, Huang is concerned with how physical goods arrive at a location, and Dovolis is concerned with information pertaining to goods. Simply stated, then, there is no reason why one of ordinary skill in the art at the time of the invention would have looked at Capazario, Huang, and Dovolis when attempting to design any system/method -- much less the invention of claims 1 and 13.

With respect to the specific features recited in the claims, as noted above, independent claims 1 and 13 each require allocating "a launch quantity to each account for a new product launch and allocates product to each account for replenishment of a previously launched product, based on the allocation method assigned to the product and in accordance with a predefined business allocation goal provided by the sales administrator for the plurality of locations." The Final Office Action admits that Capazario fails to teach or suggest a computer program that allocates a launch quantity to

each account for a new product launch and allocates product to each account for replenishment of a previously launched product based on the allocation method assigned to the product, and introduces Huang and Dovolis to make up for this deficiency of Capazario. However, Capazario, Huang and Dovolis, alone or in combination, still fail to disclose this feature of claims 1 and 13.

Huang merely discloses a supply management decision process that presumably accounts for dynamic replanning, vendor managed replenishment (VMR) strategic planning, and replenishment planning. None of these factors constitute a predefined business allocation goal provided by the sales administrator for the plurality of locations as required by claims 1 and 13. Although Huang makes reference to certain plans and plan data (e.g., Aggregate Production Plan Data, Production-Sales-Inventory Plan, Master Production Plan, etc.), such plans appear to be static reports or mere contract requirements rather than a predefined business allocation goal. Furthermore, the user requirements discussed in Huang appear to guide the design of the tool itself, rather than to cause a computer program to behave in accordance with a predefined business allocation goal provided by the sales administrator for the plurality of locations.

The Final Office Action employs a piecemeal “examination” of the independent claims, abstracting particular words from the various claim limitations and introducing Dovolis as allegedly disclosing these words. In fact, pages 3-4 of the Final Office Action improperly divorces the following passages from the context in which they appear: “to a plurality of locations,” “each account corresponding to at least on said location in said

plurality of locations,” “among said plurality of locations,” “and/or reassign,” “the allocation method being at least one of a fixed allocation method, a static allocation method, and a dynamic allocation method,” and “in accordance with a predefined business allocation goal provided by the sales administrator for the plurality of locations.”

Applicant respectfully submits that this sort of claim “examination” is incorrect as a matter of patent law, since all claim limitations must be considered, and since all limitations must be considered in whole and not in part. Although page 2 of Final Office Action intimates that these abstractions are somehow confusing and are less than fully understood, proper consideration of the claim limitations as a whole might help to resolve any lingering confusion and/or provide a better understanding of each particular claim and of each particular limitation in each particular claim.

In any case, paragraph 91 of Dovolis does not describe any of the further abstractions -- alone or in their proper context -- as alleged in the Final Office Action. The entirety of paragraph 91 of Dovolis is reproduced herein, for the sake of convenience:

“Typically, the vendor or retailer 22 can transmit either electronically or physically vendor manuals associated with purchase items (e.g., consumer 20 manuals, parts manuals, operation manuals, and any warranty information). This is done initially and is updated continuously by the asset management system 10 as new vendors and new products are added to the asset management system’s inventory.”

This portion merely teaches that the asset management system of Dovolis can be updated (e.g., with vendor manuals and information associated therewith) as new saleable

products are made available. Clearly, this portion of Dovolis does not describe any of the Final Office Action's laundry list of abstracted claim terms, or any of Applicant's claimed features, at all. Thus, this portion of Dovolis fails to make up for the above-noted deficiencies with respect to Capazario and Haung, and the alleged three-way Capazario/Huang/Dovolis combination, even if proper, similarly fails to render obvious the invention of claims 1 and 13.

Indeed, even if this combination were proper, it still would not render obvious the claimed invention. That is, even if the alleged three-way combination were appropriate, it would merely manage warranty information (and thus not the supply/resupply of products as claimed), and would be consumer driven at a point-of-sale (and thus not manufacturer driven at a plurality of retailer locations as claimed).

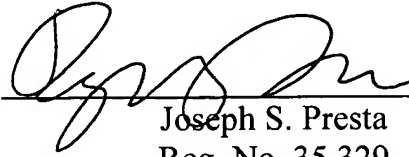
For at least the foregoing reasons, Applicant believes that claims 1 and 13 clearly and patentably distinguishes over the cited prior art. In addition, all of the dependent claims are believed to be allowable at least by virtue of their dependency on one of the independent claims.

In view of the foregoing remarks, withdrawal of the rejections and allowance of this application are earnestly solicited. Should the Examiner have any questions regarding this application, or deem that any formalities need to be addressed prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

JACKSON et al.
Appl. No. 10/628,555
May 23, 2008

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Joseph S. Presta
Reg. No. 35,329

JSP/JR:lmj
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100